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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/583,755

06/21/2006

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EXAMINER

MORROW, JASON S

ART UNIT

PAPER NUMBER

3612

MAIL DATE

DELIVERY MODE

02/03/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/583,755 | Applicant(s) VALENTINE, TIMOTHY SCOTT | |
| | Examiner Jason S. Morrow | Art Unit 3612 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/21/2006</u> . | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the gripping means of claim 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the lad area of a vehicle" in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the threshold" in line 5. There is insufficient antecedent basis for this limitation in the claim.

In claim 2, line 1, applicant claims "a sheet". It is unclear if applicant is claiming a different or the same sheet from claim 1.

Claim 3 recites the limitation "the sheet material" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the folds" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the retention means" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the threshold flap" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the folds" in line 2. There is insufficient antecedent basis for this limitation in the claim.

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Claim 9 recites the limitation "the folds" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "the floor" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 recites the limitation "the threshold flap" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the limitation "the threshold flap" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation "the threshold flap" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-8 and 12-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Konop et al. (US Patent 6,206,443).

Re claim 1, Konop et al. discloses a vehicle load area liner (8) comprising a sheet foldable to form a receptacle having a base and a wall around the base, the receptacle being arrangable in use to be mounted in the load area of a vehicle (see figures 1 and 4), and wherein at

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least a portion of the wall of the receptacle is unfoldable to provide a flap (60) able to mask the threshold of the load area, when the vehicle load area is open, in use.

Re claim 2, a sheet comprises a substantially quadrilateral-shaped sheet material in its unfolded state (see figure 2).

Re claim 3, the comers of the sheet material are chamfered or fluted to enable efficient folding into the receptacle (see figure 2).

Re claim 4, the sheet comprises folds which enable the sheet to be folded such that the base of the receptacle is substantially quadrilateral-shaped (see figures 1 and 2).

Re claim 5, the folds at or near the comers of the sheet material are oriented such that the comers are fluted to enable efficient folding of the wall of the sheet from the base (see figures 1 and 2).

Re claim 6, means to releasably retain (72, 74, 55, 45, 80, 78, 81, 82) the sheet in at least a partially folded configuration are provided.

Re claim 7, the retention means enable independent retention of the threshold flap on the receptacle, such that the flap can be maintained as part of the wall of the receptacle, and released by user to form a flap when desired (see figures 4 and 5).

Re claim 8, the folds are oriented such that the wall of the receptacle is taller at one or more portions (the cut-outs at the corners of 60 allow that portion of the wall to be shorter than other portions).

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Re claim 12, the liner is constructed from plastics, paper (is it constructed of cardboard, which is a form of paper, see column 2, line 35), card, metal or any mixture thereof.

Re claim 13, Konop et al. discloses a method of protecting a vehicle load area comprising the steps of: providing a liner, folding the liner to form a receptacle, and mounting the liner on the floor of the vehicle load area (the steps are inherent to the structure of the reference).

Re claim 14, the method includes unfolding the threshold flap of the receptacle to mask the threshold of the vehicle load area (see figure 5 which shows such a step).

Re claim 15, the threshold flap is of dimensions such that, when unfolded, it protrudes past the threshold of the vehicle load area (the vehicle load area is that defined by the liner as in figure 4; the flap extends past the threshold of the vehicle load area as shown in figure 5).

Re claim 16, the method includes loading goods into the vehicle load area, and folding the threshold flap back onto the receptacle to form a complete receptacle around the loaded goods (see column 2, lines 1-14).

At least a portion of the wall is folded back on itself to form a double-backed portion (70) capable of being unfolded.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Konop et al. (US Patent 6,206,443).

Konop et al. discloses all the limitations of the claims, as applied above, except for one wall being taller than the other wall portions.

The examiner takes Official Notice that changing the size of the components of an invention is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have one wall, such as that disclosed by Konop et al., be taller than the other wall portions, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. See *In re Rose*, 105 USPQ 237 (CCPA 1955).

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Konop et al. (US Patent 6,206,443) in view of Cantieri (US Patent 4,279,439).

Konop et al. discloses all the limitations of the claim, as applied above, except for the sheet further comprising gripping means capable of gripping a load area floor in use.

Cantieri teaches the use of gripping means capable of gripping a load area floor.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a vehicle load area liner, such as that disclosed by Konop et al., to have the

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sheet include gripping means (52) capable of gripping a load area floor, as taught by Cantieri, in order to allow the device to be used with a load area having smooth surfaces (see Cantieri column 28-40).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references all disclose vehicle load area liners.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason S. Morrow whose telephone number is (571) 272-6663. The examiner can normally be reached on Monday-Friday, 8:00a.m.-4:30p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason S. Morrow/

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Primary Examiner, Art Unit 3612

January 31, 2009